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8 ASSOCIATION AS LEGAL TITLE TRUSTEE FOR
9 TRUMAN 2016 SC6 TITLE TRUST

10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA (OAKLAND)

12 In Re:	)	CASE NO. : 20-41288
)	
13 CAROL LEE DEPUYDT-MEIER,	)	CHAPTER 13
)	
14 DEBTOR,	)	DC No: DVW-001
)	
	)	MOTION FOR RELIEF FROM
	)	THE AUTOMATIC STAY;
15 U.S. BANK, NATIONAL ASSOCIATION AS	)	MEMORANDUM OF POINTS AND
16 LEGAL TITLE TRUSTEE FOR TRUMAN 2016	)	AUTHORITIES
17 SC6 TITLE TRUST)	
	)	DATE: 12/09/2020
18 MOVANT	)	TIME: 9:30 am
	)	CTRM: 220
19 v.	)	U.S. Bankruptcy Court
	)	1300 Clay Street, Oakland, CA 94612
20 CAROL LEE DEPUYDT-MEIER, DEBTOR;)	
21 MARTHA G. BRONITSKY, CHAPTER 13	)	Honorable William J. Lafferty
22 TRUSTEE,)	
	)	Property: 61 Rudgear Drive,
23 RESPONDENTS.	)	Walnut Creek, CA 94596
)	

24 COMES NOW, Movant U.S. BANK, NATIONAL ASSOCIATION AS LEGAL
25 TITLE TRUSTEE FOR TRUMAN 2016 SC6 TITLE TRUST ("Movant"), and files the within
26 Motion for Relief From Stay and Memorandum of Points and Authorities in Support Thereof
27 pursuant to *11 U.S.C. Section 362(d)(1)* and respectfully represents as follows.
28

1 **MOTION FOR RELIEF FROM AUTOMATIC STAY; MEMORANDUM OF POINTS AND**
2 **AUTHORITIES**

I.

STATEMENT OF FACTS

1. On or about March 30, 2006, CAROL LEE DEPUYDT-MEIER ("Debtor") executed a Note in the sum of \$600,000.00 naming DOWNEY SAVINGS AND LOAN ASSOCIATION, F.A. as Payee. Said Note is secured by a Deed of Trust of even date in the sum of \$600,000.00 naming DOWNEY SAVINGS AND LOAN ASSOCIATION, F.A. as Beneficiary, recorded in the Office of the County Recorder of Contra Costa County on April 6, 2006 as Document No. 2006-0106478-00 and encumbering the real property located at 61 Rudgear Drive, Walnut Creek, CA 94596 (the "Property"). True and correct copies of the Note and Deed of Trust are attached to the Declaration in Support of Motion for Relief from the Automatic Stay as Exhibits "1" and "2".

2. All beneficial interest in the Note and Deed of Trust were assigned to Movant. Movant, directly or through its Agent, is in possession, custody, and control of the original endorsed Note assigning all rights, title, and interest therein to Movant.

3. An Assignment of the Deed of Trust was recorded on October 4, 2012 as Document No 2012-0245207 assigning all right, title and interest in the Note and Deed of Trust to U.S. Bank, National Association. A subsequent Assignment of the Deed of Trust was recorded on January 28, 2019, Document No. 2019-0011296-00, assigning all right, title and interest in the Note and Deed of Trust to U.S. Bank National Association as Legal Title Trustee for Truman 2016 SC6 Title Trust, Movant herein, which Assignment was recorded in the Office of the Contra Costa County Recorder. A true and correct copy of the Assignments are attached to the Decl. as Exhibit "3".

4. A BankruptcyPetition was filed by Debtor on 08/03/2020.

5. A Notice of Default was recorded on 01/24/2020.

6. A Notice of Sale was recorded on 05/04/2020.

7. A foreclosure sale is currently set for December 17, 2020.

1 8. At the time of the Debtor's Bankruptcy filing the total amount owing under the
2 Note and Deed of Trust was no less than \$924,688.73 with \$402,065.78 in pre-petition
3 mortgage arrears.

4 9. The monthly post-petition mortgage payment is currently \$3,053.07.

5 10. Debtor has defaulted on her obligations due and owing Movant by failing to
6 tender the post-petition mortgage payments for the months of September 1, 2020 through
7 November 1, 2020 including, a total of (three) 3 delinquent post-petition payments and post-
8 petition arrears of \$9,159.21. Debtor has \$0.00 in her suspense account. The total delinquency
9 is \$9,159.21. A true and correct copy of the post-petition accounting of the loan is attached to
10 the Declaration as Exhibit "4".

11 11. There is currently no loan modification application pending.

12 **II. MEMORANDUM OF POINTS AND AUTHORITIES**

13 **A. RELIEF FROM STAY SHOULD BE GRANTED UNDER** 14 **SECTION 362(d)(1) FOR CAUSE**

15 **1. Lack of Adequate Protection**

16 Pursuant to *Section 362(d)(1)* cause exists to grant relief from stay if Movant's security
17 interest is not adequately protected. Movant submits that adequate protection in this case
18 requires normal and periodic cash payments to Movant, as called for by the Note, plus
19 repayment of any and all delinquent amounts owed to Movant, including all attorney's fees
20 and costs incurred in the filing of the Motion. As set forth above, Debtors have failed to tender
21 (three) 3 of the required post-petition mortgage payments and the post-petition delinquency is
22 currently no less than \$9,159.21.
23

24 For the foregoing reasons, and based upon the evidence set forth in this Motion, this
25 Court should grant relief from the automatic stay to allow Movant to enforce its rights and
26 remedies under its Note and Deed of Trust pursuant to *Section 362(d)(1)*.
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WHEREFORE, Movant respectfully prays for an Order of this Court:

- Dated: 11/23/2020

/s/ Diane V. Weifenbach

U.S. BANK, NATIONAL ASSOCIATION AS
LEGAL TITLE TRUSTEE FOR TRUMAN 2016
SC6 TITLE TRUST